

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Liliana Manuel	Team: Squad #3	CCRB Case #: 201501972	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 03/10/2015 7:30 PM	Location of Incident: 301 Sutter Avenue	Precinct: 73	18 Mo. SOL 9/10/2016	EO SOL 9/10/2016	
Date/Time CV Reported Tue, 03/10/2015 7:56 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 03/18/2015 1:56 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Daniel Mezynski	15638	955193	PSA 2

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Gina Saravo	25996	955447	PSA 2

Officer(s)	Allegation	Investigator Recommendation
A.POM Daniel Mezynski	Abuse: PO Daniel Mezynski frisked § 87(2)(b)	

Case Summary

On March 10, 2015, § 87(2)(b) filed the following complaint with IAB via telephone. The complaint generated IAB log number § 87(2)(b), and was received at the CCRB on March 18, 2015. On March 10, 2015, at approximately 7:30 p.m., § 87(2)(b) was stopped by PO Daniel Mezynski and PO Gina Saravo of PSA2 outside of 301 Sutter Avenue in Brooklyn. PO Mezynski frisked § 87(2)(b) and issued him a summons for § 87(2)(b) (Allegation A) (Board review 1).

Mediation, Civil and Criminal Histories (Board review 2-6)

- Mediation was not offered to § 87(2)(b) § 87(2)(b) [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
- As of May 1, 2015, § 87(2)(b) had not filed a notice of claim with the City of New York. [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)], § 87(2)(g)

Civilian and Officer CCRB Histories (Board review 7-8)

- This is the second CCRB complaint filed by § 87(2)(b) § 87(2)(b)
- As of July 9, 2015, PO Mezynski will have been member of the NYPD for two years. This is the first CCRB complaint filed against him.

Potential Issues

Between the dates of March 20, 2015, and April 1, 2015, numerous calls were made to numbers for § 87(2)(b) obtained from IAB, CTS, and Lexis Nexis. § 87(2)(b) was unable to be reached. On April 13, 2015, a search of the Department of Correction for New York City revealed that § 87(2)(b) had been arrested and was being held at Riker's Island. § 87(2)(b) was therefore not interviewed until April 17, 2015.

Findings and Recommendations

Allegations Not Pleaded

- § 87(2)(g)
- § 87(2)(g)

Recommendations

Allegation A – PO Daniel Mezynski frisked § 87(2)(b)

§ 87(2)(b) was interviewed at § 87(2)(b) on Rikers Island on April 17, 2015, and alleged that after providing his benefit card to the officers, PO Mezynski frisked him; patting down his front and back pockets, as well as his groin. While being frisked, § 87(2)(b) asked PO Mezynski what he was doing and told him that he did not give PO

Mezynski consent to search him. § 87(2)(b) asserted that he was calm and quiet throughout the incident, and was physically compliant while being frisked. (Board review 10)

PO Mezynski was interviewed at the CCRB on May 27, 2015, and recounted that he stopped § 87(2)(b) after observing him throw a piece of paper on the ground. PO Mezynski claimed that § 87(2)(b) seemed nervous during the stop. PO Mezynski did not observe any bulges on § 87(2)(b). PO Mezynski stated that he feared for his safety due to his prior knowledge of § 87(2)(b) past arrests for crack cocaine and possession of a firearm. While § 87(2)(b) stated, “I know my rights. You can’t do this,” he was generally compliant while being frisked. No contraband was recovered. (Board review 11-13)

PO Saravo was interviewed at the CCRB on June 5, 2015, and confirmed that § 87(2)(b) was stopped because PO Mezynski saw him litter. After receiving § 87(2)(b) benefit card, she walked approximately ten feet away from PO Mezynski and § 87(2)(b) and called the stationhouse to perform a warrant check on § 87(2)(b). She did not turn her back to PO Mezynski and § 87(2)(b) but was mainly focused on the benefit card and warrant check. She did not see PO Mezynski frisk § 87(2)(b). (Board review 14-15)

In order to perform a frisk, an officer must have reasonable suspicion that a person is armed and dangerous, Arizona v. Johnson, 555 U.S. 323 (2009). According to People v. Boulware 130 A.D.2d 370, while an officer’s knowledge of a person’s criminal history may be relevant to providing founded suspicion of criminality, “founded suspicion of criminal activity arises only when there is some present indication of criminality based on observable conduct.” Absent reasonable suspicion that criminality is afoot and a civilian is armed, officers cannot conduct a frisk Matter of Darryl C., 2012 NY Slip Op 05118. (Board review 16-18)

§ 87(2)(g)

Pod: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date